

**FILED**

JUN 22 2012

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Kaheal Parrish,  
Plaintiff,

Case No.C-11-1438-LHK-(PR)

Honorable Lucy H.Koh

v.

A.Solis,et al.,  
Defendants.

PLAINTIFF'S OPPOSITION TO THE  
DEFENDANTS' MOTION AND MOTION  
FOR SUMMARY JUDGEMENT; MEMORANDUM  
OF POINTS AND AUTHORITIES AND  
DECLARATION OF KAHEAL PARRISH  
IN SUPPORT THEREOF

TO THE HONORABLE LUCY H.KOH, UNITED STATES DISTRICT JUDGE,  
TO ALL PARTIES, AND TO THEIR ATTORNEY OF RECORD:

Pursuant to the Court's May 23, 2011, Order and Rule 56 of  
the Federal Rules of Civil Procedure, (Fed.R.Civ.Proc.),  
Plaintiff hereby oppose defendants' motion for summary judgement  
and move that the Court deny defendants' motion in its entirety.

The Motion and request will be made on the ground that a  
genuine issue of material fact of law exist making quite clear  
that defendants' are not entitled to qualified immunity because  
such an immunity only protects good-willed and competent prison  
officials acting in good faith.

The Motion will be based on this Notice, Memorandum of  
Points and Authorities, Declaration of Kaheal Parrish, on all

1 the papers and records on file in this matter, and on all other  
2 such evidence as the Court may consider.

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5 Dated: May 28, 2012  
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12 Kaheal Parrish-Plaintiff  
13 In Pro se  
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

About December 5, 2011, defendants' moved for summary judgment on the ground that they are entitled to qualified immunity however, even in light of the fact that Plaintiff has been denied not just the right to discovery but also the right to compel the same, Plaintiff contend that defendants' are surely not entitled to qualified immunity, as there are disputed facts and evidence to warrant denial of defendants' summary judgement motion in accordance with *Matusita Electrical Industrial Co., LTD., v. Zenith Radio Corp.*, 475 U.S. 574-587, 106 S.Ct.1348(1986); see also *Hathway v. Coughlin*, 841 F.2d 48,50(2nd Cir.1988); *Smith v. Maschner*, 899 F.2d 940,949(10th Cir.1990)(Circumstantial evidence could create in issue of material fact barring summary judgement), *Wilson v. City of Chicago*, 707 F.Supp.379 881-82 (N.D.Ill 1989).

At the summary judgement stage, a Judge's function is not to weigh the evidence or determine the truth of the matter but, rather, to determine whether there is any genuine issue for trial. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 249, 106 S.Ct.2005, 91 L.Ed.2d 202(1986). A factual dispute is "material" only if it might affect the outcome of the suit under governing law.(see *Anderson*, 477 U.S. at 248). Also *Balint v. Carson City*, 180 F.3d 1047,1054(9th Cir 1999)(En Banc).

Here, defendants move for summary judgement based on claim of qualified immunity, relying on evidence which is not only refuted by that introduced by Plaintiff, but also contradicted

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1 by itself. Accordingly, Defendants' may not be granted summary  
 2 judgement by means of such contradictory evidence as already set  
 3 forth by Kennedy v. Allied Mut., Ins. Co., 952 F.2d 262, 266-67  
 4 (9th Cir.1991), for additional reasons as follows.

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 6 II. THE BULK OF DEFENDANTS' CLAIM FOR SUMMARY JUDGEMENT RESTS  
 7 ON QUALIFIED IMMUNITY WHICH MUST BE DENIED AS A MATTER OF  
 8 LAW AND IN THE INTEREST OF JUSTICE

9 The ground for defendants' motion for summary judgement  
 10 rests on a claim of qualified immunity in defense to the issues  
 11 upon which complaint is made however, the defense of qualified  
 12 immunity protects "government officials from liability for civil  
 13 damages insofar as their conduct does not violate clearly  
 14 established statutory or constitutional rights of which a  
 15 reasonable person would have known." Harlow v. Fitzgerald, 457  
 16 U.S. 800, 818, 102 S.Ct. 2727, 2738, 73 L.Ed.2d 396 (1982). The rule  
 17 of qualified immunity provides ample to all but the plainly  
 18 incompetent of those who knowingly violate the law. Burns v.  
 19 Reed, 500 U.S. 478, 494-95, 111 S.Ct. 1934, 1944, 114 L.Ed.2d 547  
 20 (1991) (quoting Malley v. Briggs, 475 U.S. 335, 341, 106 S.Ct. 1092  
 21 89 L.Ed.2d (1985)). Therefore, regardless of whether the  
 22 constitutional violation occurred, the officer(s) should prevail  
 23 if the right asserted by the Plaintiff was not 'clearly  
 24 established' or the officer could have reasonably believed that  
 25 his particular conduct was lawful. Romaro v. County, 931 F.2d  
 26 624, 627 (9th Cir.1991). Furthermore, [t]he entitlement is an  
 27 immunity from suit rather than a mere defense to liability.....

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1 it is effectively lost if a case is erroneously permitted to go  
2 to trial. Mitchell v. Forsyth, 474 U.S. 511,526, 105 S.Ct. 2806,  
3 2815, 86 L.Ed.2d 411(1985).

4 Here, defendants' have no grounds to make an argument on  
5 qualified immunity because Plaintiff's rights asserted within  
6 Plaintiff's verified complaint were clearly established law  
7 during the time the deprivations are claimed in this action.

8 A. PLAINTIFF'S SUICIDAL TREND AND ATTEMPT

9 Defendants' take the position that Plaintiff's suicide trend  
10 and attempt on June 11,2010, caused them to 'genuinely fear for  
11 Plaintiff's life,\* and that in response to such a genuine fear  
12 for Plaintiff's life, defendant's followed Salinas Valley State  
13 Prison(SVSP) 'Suicide Prevention and Use of Force Regulations;'  
14 (see defendants' motion for summary judgement) however, material  
15 fact in dispute exist because Defendant's R.Machuca and Powell  
16 created and set in motion the suicidal trend and attempt suffered  
17 by Plaintiff, thereby intimidating and threatening Plaintiff  
18 previously with physical harm should Plaintiff suffer another  
19 charge for indecent exposure.(see Plaintiff's Verified Complaint  
20 on file with the Court).

21 Defendant's R.Machuca and Powell both submitted evidence by  
22 form of declarations, declaring that they each "perceived  
23 Plaintiff was a threat to himself" as a direct result of  
24 Plaintiff's actions which consist of a. covering up cell  
25 windows and turning off lights inside cell quarters to prevent  
26 defendant's from seeing inside Plaintiff's cell; b. Plaintiff  
27 conveying to a psychiatric technician his desire to committ

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1 suicide which include Plaintiff's admission to Defendant Powell  
2 relative to metal swallowed by Plaintiff in effort to carry out  
3 the suicide attempt; and c. Plaintiff's refusal to respond to  
4 defendant's efforts at removing Plaintiff from his cell for  
5 medical/suicide evaluation, yet this purported belief asserted  
6 by Defendant's R.Machuca, Powell, and Sanudo are contradicted by  
7 the fact that defendant's, specifically Defendant Powell, initia-  
8 ted disciplinary action against Plaintiff for this very event,  
9 charging Plaintiff with a Rules Violation Report(RVR) alleging  
10 that the entire suicide attempt in itself "Obstructed a Peace  
11 Officer in Performance of Duties,"(see Declaration of Defendant  
12 Muniz at Exhibit E In support of defendants' motion for summary  
13 judgement).

14 Clearly established law referenced by the California  
15 Department of Corrections & Rehabilitation(CDCR) California Code  
16 of Regulations.,Title 15(CCR.Title 15) at section 3317 states in  
17 part that "An inmate shall be referred for a mental health  
18 evaluation prior to documenting misbehavior on a CDC Form 115,  
19 Rules Violation Report, in any case where the inmate is suspected  
20 of self mutilation or attempted suicide. If the mental health  
21 evaluation determines that it was an actual suicide attempt, a  
22 CDC Form 115 shall not be written and the behavior shall be  
23 documented on a CDC Form 128B,General Chrono, for inclusion in  
24 the inmate's central file," thus, defendants' cannot initiate  
25 and arrange for Plaintiff to be subjected to disciplinary action  
26 on misbehavior directly related to Plaintiff's suicide attempt  
27 within SVSP in a manner which clearly demonstrate that the

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1 suicide attempt in dispute was not a 'genuine suicide attempt'  
2 but argue in defense to this lawsuit that their conduct was  
3 justified because they genuinely feared for Plaintiff's safety  
4 and perhaps saved Plaintiff's life because if defendant's belief  
5 were indeed true, and defendant's truly believed that Plaintiff  
6 suicide attempt was genuine, then Plaintiff would have not been  
7 subjected to RVR disciplinary proceedings or found guilty of a  
8 CDCR violation at a prison disciplinary hearing on this matter.

9 This is a material fact in itself warranting the denial of  
10 defendants' motion for summary judgement, as summary judgement  
11 may not be granted by means of such contradictory evidence. see  
12 Kennedy v. Allied Mut., Ins. Co., supra.

13 Additionally, it is well established CDCR law referenced at  
14 CCR. Title 15 Section 3315(a)(3)(W), that "Self mutilation or  
15 attempted suicide for the purpose of manipulation" is a serious  
16 Rules Violation requiring disciplinary sanction, Plaintiff was  
17 never charged for such a violation by defendant's, and while  
18 Plaintiff lay housed in Mental Health Crisis Bed(MHCB) unable to  
19 participate in the Mental Health Assessment because of suicide  
20 prevention housing status, neither defendant acted in good faith  
21 to clarify that Plaintiff's suicide attempt was not for purposes  
22 of manipulation, for to do so would have prevented Defendant  
23 Powell's RVR from subjecting Plaintiff to disciplinary sanctions  
24 for the charge of obstructing a peace officer while in the  
25 performance of duty, another contradiction which cannot be  
26 ignored so that defendants' may prevail on summary judgement.

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1 B. DEFENDANT R.MACHUCA AND POWELL'S FOLLOW THROUGH ON THREAT TO  
 2 IMPOSE PHYSICAL HARM TO PLAINTIFF DURING EMERGENCY CELL  
 3 EXTRACTION WHERE EXCESSIVE FORCE CAUSED THE DEPRIVATIONS  
 4 UPON WHICH COMPLAINT IS MADE IN BREACH OF WELL ESTABLISHED  
RIGHTS KNOWN TO DEFENDANTS'

5 Defendant's Solis, Salazar, Machuca, Muniz, Powell, and  
 6 Sanudo have each submitted declarations in support of motion for  
 7 summary judgement declaring that Salinas Valley State Prison(SVSP  
 8 Operational Procedures(OP's) to include SVSP Use of Force and  
 9 suicide prevention policies were adhere to, that defendant's did  
 10 not threaten, retaliate against, strike, kick, nor use racial  
 11 slurs or epithets during Plaintiff's cell extraction, that  
 12 Defendant A.Machuca was not present at any time during the cell  
 13 extraction and most imporantly, no one denied Plaintiff medical  
 14 care following the cell extraction in dispute however, as pre  
 15 discussed by Kennedy v. Allied Mut.,Ins.Co., *supra*, Defendants'  
 16 may not be granted summary judgement by means of contradictory  
 17 evidence as follows:

18 Defendant's allege that only defendant's Powell, and Sanudo  
 19 entered Plaintiff's cell for the extraction with the aide of  
 20 officer's Chavez and Spaulding while Plaintiff claim that  
 21 Defendant's R.Machuca, A.Machuca, Powell, and Sanudo were present  
 22 inside Plaintiff's cell, and after being forced to the ground and  
 23 handcuffed by defendant Powell's batterram shield, which had  
 24 already knocked the wind from Plaintiff's timid body, defendant  
 25 Powell lay stradled on Plaintiff's upper back interrupting flow  
 26 of breath as Defendant R.Machuca pulled down the back of  
 27 Plaintiff's underwear to douse with O.C.Pepper spray.(see  
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1 Statement of Claim in Plaintiff's Verified Complaint at paragraph  
2 12-13). Followed by O.C.Pepper spray directly to Plaintiff's  
3 face as defendant's A.Machuca, R.Machuca, and Sanudo persist to  
4 kick Plaintiff's leggs, buttox, and lower back while defendant  
5 Powell then took about five punches with a closed fist to  
6 Plaintiff's head, all while yelling racial obscenities.

7 The California Department of Corrections & Rehabilitation  
8 (CDCR) 837 Crime/Incident Report attached at Exhibit C to  
9 Defendant Muniz declaration in support of Defendants' motion  
10 for summary judgement purports that once subdued, Plaintiff began  
11 to violently thrust his body side to side, kicking feet up and  
12 down and side to side, and attempting to push off the ground in  
13 an attempt to break free. This same report prepared by Defendant  
14 Salazar also states that "there was an accidental discharge of  
15 O.C.Pepper spray during the extraction. It was not determined  
16 who had the accidental discharge. Reports note a sent of O.C.  
17 in the cell and on the CDCR-7219 on Inmate Parrish. Parrish was  
18 not sprayed directly and the exposure did not require  
19 decontamination procedures," however, Plaintiff's CDCR-7219  
20 attached at Exhibit A Herein clearly show that Plaintiff was  
21 suffering injury from obvious exposure to O.C.Pepper spray in  
22 the entire face and head area. This disputed fact alone creates a  
23 issue of material fact barring summary judgement, as defendants'  
24 own evidence contradict the claims and defense being asserted by  
25 not just Plaintiff but defendants' them self. This factual  
26 dispute is material to affect the outcome of this suit under  
27 governing law.(see Anderson, 477 U.S. at 248),.  
28

1 Defendant's continue refer to Plaintiff's exposure to the  
2 O.C.Pepper spray as merely some 'accidental discharge' "not  
3 determined who had the accidental discharge," and defendants',  
4 specifically Defendant Salazar, utterly ignored the CDCR-7219  
5 Medical Report of Injury completed by RN Denise and Kevin Munnr  
6 immediately following the disputed emergency cell extraction  
7 which not only records Plaintiff's exposure to O.C.Pepper spray  
8 but also necessitous need for decontamination procedures denied  
9 thereafter, as defendants', specifically Defendant Salazar, made  
10 no effort to investigate the discharge of the O.C.Pepper spray as  
11 so Plaintiff's exposure may go on unnoticed, falsely reported as  
12 'minor injuries,' and appear justified in light of circumstances  
13 however, defendants' tell two different stories, one of which is  
14 blatantly contradicted by the record, so that no reasonable jury  
15 could believe it, thus, a Court should not adopt this version of  
16 facts asserted by the defendants' for purposes of ruling on the  
17 instant motion for summary judgement. see Scott v. Harris, 550  
18 U.S. 372, 380-83(2007).

19 The CDCR-837 reports filed by defendants' which include  
20 the declarations being relied on in support of defendants' motion  
21 for summary judgement all deny any injuries sustained by  
22 Plaintiff and further deny defendant's involvement in any such  
23 excessive force imposed after Plaintiff had been subdued yet at  
24 page 15 line 16-18, of defendants' notice of motion and motion  
25 for summary judgement defendants' plead for the record that  
26 "Parrish injuries consisted of some pain in his left eye from  
27 exposure to OC spray and possibly from when he rushed into Powell  
28 //

1 as Powell entered his cell," an omission which further creates a  
2 material fact of law in dispute because such omission clearly  
3 contradict the record before the Court.

4 The same is too said relative to the declaration in support  
5 of defendants' motion for summary judgement submitted by  
6 Defendant R.Machuca where defendant purports to have never entered  
7 Plaintiff's cell during the disputed cell extraction however,  
8 the CDCR-837 authored by officer L.Obodozle who was the control  
9 tower operator attached at Exhibit C to defendant Muniz  
10 declaration in support of defendants' motion for summary  
11 judgement reports in part that "Sgt.R.Machuca ordered me to open  
12 the cell door. Officers Chavez, Spalding, Powell, ~~Samudo~~, and  
13 SGT.Machuca entered cell 126 with a protective shield and  
14 placed the inmate in handcuffs and leg restraints," clearly  
15 placing Defendant R.Machuca inside the cell where the issues  
16 upon which complaint is made occurred. Again, defendants'  
17 conflicting facts and own evidence contradict the claim and  
18 defense asserted in this action, another factual dispute material  
19 to affect the outcome of this suit under governing law.

20 Additionally, there is no evidence offered by defendants'  
21 motion for summary judgement that a qualified psychologist was  
22 consulted or even present during the disputed cell extraction  
23 or that the SVSP's video camera procedure was followed as  
24 required by the OP's attached at Exhibit's A and B to  
25 defendant Muniz declaration in support of defendants' motion for  
26 summary judgement, thus, a material dispute of fact and law  
27 exist which bar defendants' request for summary judgement.  
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1 Because Plaintiff's rights were clearly established at the  
2 time the deprivations are claimed in this lawsuit and because  
3 Defendants', and each of them, surely could have believed that  
4 their conduct was unlawful during the times thereto, the  
5 defendants' are not entitled to qualified immunity and therefore  
6 the motion for summary judgement must be denied in its entirety.

7 III. DEFENDANTS' HAVE NOT SUBMITTED AN ADEQUATE FACTUAL CASE

8 In addition to the above, defendants' have moved for  
9 summary judgement without submitting an adequate evidentiary  
10 basis for it, and have too failed to establish the necessary  
11 facts in the manner required by the rules. There has been no  
12 discovery answered, provided, or disclosed in this action. The  
13 defendants' only now have the conflicting to include  
14 contradictory declarations filed in support of defendants' motion  
15 for summary judgement to rely on in aide of an argument for  
16 qualified immunity, again, creating a genuine issue of material  
17 fact as to each element of this case. see Celotex Corp. v.  
18 Catrett, 477 U.S.317, 322-23, 106 S.Ct.2943(1986).

19 IV. DEFENDANTS' ARGUMENT RELATIVE TO PLAINTIFF'S MEDICAL RECORDS  
20 IS FLAWED BECAUSE IT TOO IS CONTRADICTED BY EVIDENCE ON THE  
21 RECORD

22 Defendants' have submitted yet another declaration by  
23 C.McCann in support of defendants' motion for summary judgement  
24 detailing Plaintiff's medical and mental health history during  
25 relevant times following the emergency cell extraction now in  
26 dispute, stretching as far to mislead the Court at paragraph 43  
27 which defendants' purport, "For the first and only time, Parrish  
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1 alleged on November 2,2010, that he had migraine headaches caused  
 2 by the force used during his cell removal.(Id.at AGO 0048.) But  
 3 on November 20, he stated that his migraine headaches were  
 4 caused by being outside in bright light. (Id.at AGO 0058.)."

5 Plaintiff has attached the true and correct copy of  
 6 defendants' AGO 0048 which is recognized as CDCR Form 7362 at  
 7 Health Care Services Request Form(HCSRF) number 9743611(see  
 8 Declaration of Kaheal Parrish) at Exhibit B Herein. Plaintiff has  
 9 also attached another CDCR Form 7362 HCSRF number 9995581, dated  
 10 September 13,2010, where Plaintiff complained, "I need 2 see the  
 11 doctor because I have severe migraines everyday from being beaten  
 12 in the head repeatedly by the C/O's on 6.11.2010.I need medication  
 13 for the headaches. The migraines come when I am under bright  
 14 lights/sun or loud sounds."see Exhibit C Herein which is a  
 15 true and correct copy of Plaintiff's submitted CDCR-7362.(see  
 16 Declaration of Kaheal Parrish.).

17 Defendants' have mislead the Court with misstated facts  
 18 contradicted by evidence before the record, even evidence being  
 19 relied on by defendants' create a genuine issue of material fact  
 20 which cannot be shield by a claim of qualified immunity, therefor  
 21 defendant motion for summary judgement should not be granted.

22 V. ADDITIONAL FACTS AND EVIDENCE IN THE POSSESSION OF  
 23 DEFENDANTS' PRECLUDED FROM DISCLOSURE IN SUPPORT OF THE  
 24 INSTANT OPPOSITION DUE TO DENIAL OF DISCOVERY REQUESTS

25 Additional facts and evidence in the possession of defendant  
 26 (s) sought by Plaintiff's First Set Of Interrogatories propounded  
 27 to Defendant's R.Mauchuca, Powell, Salazar, and A.Mauchuca to  
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1 include Plaintiff's Request for The Production of Documents, set  
 2 one, propounded to Defendant Solis have been precluded from the  
 3 record in support of the instant opposition due to Plaintiff not  
 4 being provided discovery responses or permitted by the Court to  
 5 compel relevant responses thereto. A Court should not grant  
 6 summary judgement against a party who has not had an opportunity  
 7 to pursue discovery or whose discovery requests have not been  
 8 answered. *Ingle v. Yelton*, 439 F.3d 191,196(4th Cir.2006)(denial  
 9 of Rule 56(f) motion "is particularly inappropriate when... 'the  
 10 materials sought are the object of outstanding discovery' "  
 11 (citations omitted)); *Leigh v. Warner Bros., Inc.*, 212 F.3d 1210,  
 12 1219(11th Cir.2000)(summary judgement is generally inappropriate  
 13 when the party opposing the motion has been unable to obtain  
 14 responses to his discovery requests); *Klinge v. Eikenberry*,  
 15 849 F.2d 409, 412-13(9th Cir.1988)(where plaintiff had no  
 16 evidence to support his municipal liability claim, but had made  
 17 a discovery request for the defendant officers' disciplinary  
 18 and complaint records, court denied summary judgement pending  
 19 compliance with the discovery requests).

20 VI. RULE 56(e) OF THE FEDERAL RULES OF CIVIL PROCEDURE

21 A Verified Complaint may be used as an opposing affidavit  
 22 under Rule 56. *Mcelyea v. Babbitt*, 833 F.2d 196, 997-98(9th Cir.  
 23 1987). To function as an opposing affidavit however, the  
 24 verified complaint must be based on personal knowledge and set  
 25 forth specific facts admissible in evidence. *Fed.R.Civ.Proc.*,  
 26 56(e); *Mcelyen*, 833 F.2d at 197; *Lew v. Kona Hosp.*, 754 F.2d  
 27 1420,1423(9th Cir.1985). Here, Plaintiff's allegations are not  
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1 based purely on belief. *Columbia Pictures Indus., Inc., v.*  
2 *Professional Real Estate Investors Inc.*, 944 F.2d 1525, 1529  
3 (9th Cir. 1991).

4 VII. CONCLUSION

5 As to Defendants' overall claim of qualified immunity,  
6 courts must follow a two-part test. First, the court must  
7 determine whether the law prohibiting the conduct, as alleged  
8 by the plaintiff, was clearly established. *Anderson v. Creighton*,  
9 483 U.S. 635 (1987); *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).

10 Second, the court must determine whether, under the clearly  
11 established law, a reasonable official could have believed the  
12 conduct was lawful. *Saucier v. Katz*, 121 S.Ct. 2151, 2156 (2001);  
13 *Mendoza v. Block*, 27 F.3d 1357, 1360 (9th Cir. 1994). Whether an  
14 official could have reasonably believed that their conduct was  
15 lawful must be assessed from the particular circumstances of the  
16 case. *Thompson v. Souza*, 111 F.3d 694, 698 (9th Cir. 1997). In  
17 performing this particularized assessment of reasonableness on  
18 summary judgment, however, the court must begin its analysis by  
19 assuming the facts as presented by the Plaintiff. *Saucier*, 121  
20 S.Ct. at 2156. Properly drawing all reasonable inferences in  
21 favor of Plaintiff, none of the Defendants' could have reasonably  
22 believed that their conduct was lawful after Plaintiff was subdued  
23 in handcuffs followed by leg restraints.

24 Defendants' nonetheless contend that they are entitled to  
25 qualified immunity because defendant Machuca may have saved  
26 Plaintiff life by authorizing an emergency cell extraction.

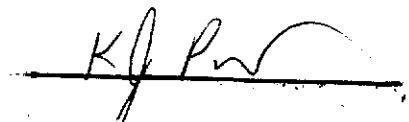
27 Plaintiff does not allege that defendant's emergency cell  
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1 extraction violated any right, neither does Plaintiff make a  
2 constitutional claim relative to the cell extraction in dispute  
3 which includes defendant R.Machuca's decision to impose said  
4 emergency cell extraction.

5 Defendants' also misstate the specificity with which law  
6 prohibiting their conduct must have been clearly established.  
7 In Anderson v. Creighton, 483 U.S.635(1987), the Supreme Court  
8 explained that in order for the law to be "clearly established,"  
9 it is not required that "the very action in question have  
10 previously been held unlawful." Instead, "the contours of the  
11 right must be sufficiency clear that a reasonable official would  
12 understand that what he is doing violates that right." Here,  
13 defendants' well knew that Plaintiff right to be free from cruel  
14 and unusual punishment was established before, during, and after  
15 Plaintiff was subdue, therefore qualified immunity does not  
16 shield defendants' liability relative to the issues upon which  
17 complaint is made.

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19 Dated: May 28,2012  
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\_\_\_\_\_  
Kaheal Parrish-Plaintiff  
In Pro se



# DECLARATION OF KAHEAL PARRISH IN SUPPORT OF OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGEMENT:

(1.) I KAHEAL PARRISH DO HEREBY DECLARE  
THAT I AM THE PLAINTIFF IN THIS ACTION  
AND IF CALLED AS A WITNESS TO THE FOLLOWING  
FACTS WHICH ARE OF MY OWN PERSONAL  
KNOWLEDGE I WOULD AND COULD  
COMPETENTLY TESTIFY THERE TO.

(2.) ATTACHED AT EXHIBIT R HEREIN IS A  
TRUE AND CORRECT ORIGINAL COPY OF CDCR  
FORM 7362 FORM HCSR# NUMBER 9743611  
REFERENCED BY DEFENDANTS' MOTION  
FOR SUMMARY JUDGEMENT.

(3.) ATTACHED AT EXHIBIT C HEREIN IS A  
SECOND TRUE AND CORRECT ORIGINAL COPY OF  
CDCR FORM 7362 FORM HCSR# 9995581  
SUBMITTED BY PLAINTIFF ABOUT SEPTEMBER  
13, 2012, CONTRARY TO DEFENDANTS'  
ARGUMENT IN THE SUMMARY JUDGEMENT  
MOTION, AS PLAINTIFF DID SEEK MEDICAL  
AIDE FOR MIGRAINE HEADACHES AS A DIRECT  
RESULT OF EXCESSIVE FORCE IMPOSED BY  
DEFENDANTS'.

(4.) BECAUSE I WAS UNABLE TO CONDUCT  
DISCOVERY AND PREVENTED BY THE COURT  
FROM COMPELLING RELEVANT RESPONSE THERE TO,  
I AM UNABLE TO PUT FORTH ADDITIONAL FACT  
AND EVIDENCE IN OPPOSITION TO DEFENDANTS'.


1 motion For Summary Judgement. As such,  
 2 it would be improper for the Court to  
 3 grant Defendants' request in this  
 4 matter, especially so since qualified  
 5 immunity does not protect the  
 6 Defendants' from issues upon which  
 7 Complaint is made.

8 (5.) While Defendants' are quick to  
 9 point out Plaintiff's history of mental  
 10 illness, indecent exposure, and Salinas  
 11 Valley State Prison (SVSP) disciplinary  
 12 methods in addressing acts of indecent  
 13 exposure Defendants Salis, Hedrick,  
 14 and Muniz make no mention of a Court  
 15 mandate well established since March 9,  
 16 2007, where the Court ordered  
 17 specialized procedures and treatment  
 18 for male adult prisoners' charged with  
 19 indecent exposure or diagnosed with  
 20 exhibitionism. SEE EXHIBIT D HEREIN.

21 Instead, Defendant's Salis, Hedrick,  
 22 and Muniz left Plaintiff to be targeted,  
 23 threatened, antagonized, and then  
 24 victimized by Defendant's R. MAULHULA,  
 25 A. MAULHULA, POWELL, AND SANDO ganglike  
 26 group as retribution for acts of indecent  
 27 exposure.

6. Additionally, considering the fact that Plaintiff only weigh 148 pounds and that Defendant Powell is over six foot tall and weighs close to two hundred and fifty pounds in full gear, it would of been near impossible for Plaintiff to resist, in anyway, Defendant's after being hit by the force and weight of Defendant Powell and the stern plastic shield used to enter Plaintiff's cell.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct this 28th day of May 2012, at Soledad, California.

  
 KANEEL PARRISH - DECLARANT  
 Plaintiff / IN PRO SE:

**EXHIBIT**

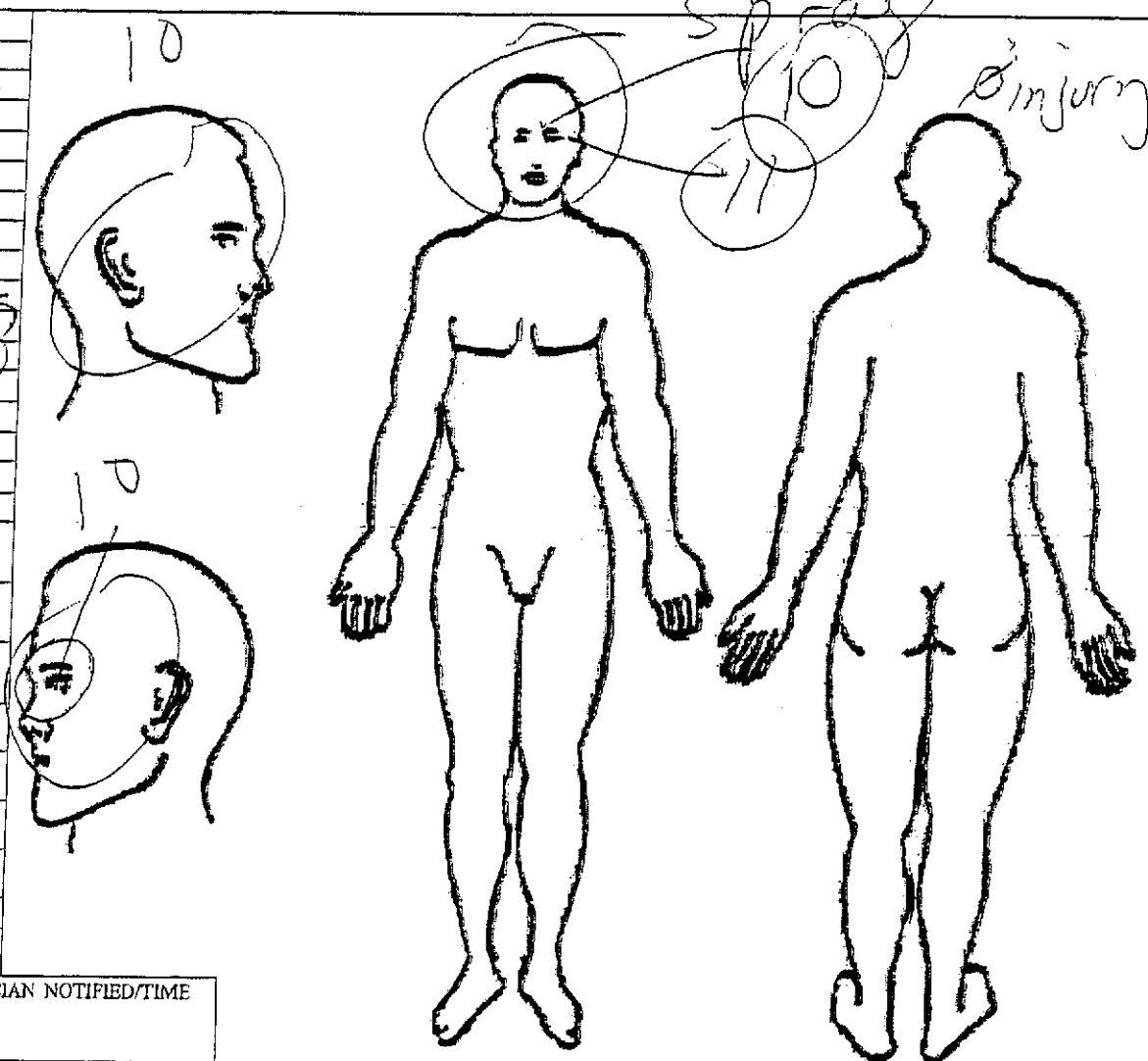
**A**

MEDICAL REPORT OF INJURY  
OR UNUSUAL OCCURRENCE

NAME OF INSTITUTION <b>SVSP</b>	FACILITY/UNIT <b>D-2</b>	REASON FOR REPORT (circle) <b>USE OF FORCE</b>	INJURY UNUSUAL OCCURRENCE	ON THE JOB INJURY PRE AD/SEG ADMISSION	DATE <b>6/11/2010</b>
THIS SECTION FOR INMATE ONLY	NAME LAST <b>PARRISH</b> FIRST	CDC NUMBER <b>F15901</b>	HOUSING LOC. <b>D2 126</b>	NEW HOUSING LOC.	
THIS SECTION FOR STAFF ONLY	NAME LAST FIRST	BADGE #	RANK/CLASS	ASSIGNMENT/RDOs	
THIS SECTION FOR VISITOR ONLY	NAME LAST FIRST	MIDDLE	DOB	OCCUPATION	
HOME ADDRESS		CITY	STATE	ZIP	HOME PHONE
PLACE OF OCCURRENCE <b>D2 126</b>	DATE/TIME OF OCCURRENCE <b>6/11/2010 1310</b>		NAME OF WITNESS(ES) <b>POWELL CHAVEZ</b>		
TIME NOTIFIED <b>1305</b>	TIME SEEN <b>1315</b>	ESCORTED BY <b>POWELL CHAVEZ</b>	MODE OF ARRIVAL (circle) AMBULATORY <b>ON SITE</b>	LITTER	WHEELCHAIR
			AGE <b>29</b>	RACE <b>B</b>	SEX <b>M</b>
BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE					

"Fuck them"

INJURIES FOUND?	YES/NO
Abrasion/Scratch	1
Active Bleeding	2
Broken Bone	3
Bruise/Discolored Area	4
Burn	5
Dislocation	6
Dried Blood	7
Fresh Tattoo	8
Cut/Laceration/Slash	9
O.C. Spray Area	10
Pain	11
Protrusion	12
Puncture	13
Reddened Area	14
Skin Flap	15
Swollen Area	16
Other	17
	18
	19
O.C. SPRAY EXPOSURE?	YES/NO
RECONTAMINATED?	YES/NO
Self-decontamination instructions given?	YES/NO
Refused decontamination?	YES/NO
15 min. checks	<b>1330 1345</b>
Staff issued exposure packet?	YES/NO



NOTIFIED/TIME <b>315 Denise</b>	PHYSICIAN NOTIFIED/TIME
TIME/DISPOSITION <b>RTC holding cell 1318</b>	

REPORT COMPLETED BY/TITLE (PRINT AND SIGN) <b>KEVIN MURPHY</b>	BADGE # <b>[REDACTED]</b>	RDOs <b>SEN MON</b>
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(Medical data is to be included in progress note or emergency care record filed in UHR)

DATE: 6-11-10 FACILITY: D HOLDING CELL #: 2  
INMATE: Parrish CDC NUMBER: F-15901 CELL: 1264  
PLACEMENT ORDERED BY: Sgt Machado Signature: [Signature]  
Print Name

REASON FOR PLACEMENT: Emergency Cell Extraction  
STAFF PLACING INMATE IN HOLDING CELL: C/O Powell Signature: [Signature]  
Print Name

C/O Samudio Signature: [Signature]  
Print Name  
HOLDING CELL SEARCHED BY: C/O Powell Signature: [Signature]  
Print Name

RESULTS OF SEARCH: Negative  
JUMPSUIT ISSUED YES ☐ NO ☒

TIME PLACED IN HOLDING CELL: 1315  
The inmate's welfare will be checked every 15-MINUTES. The inmate will be offered access to water and toilet facilities at reasonable intervals not to exceed one hour.

TIME CHECKED	PRINT STAFF NAME	SIGNATURE	COMMENTS
1. 1330	J. Spaulding	[Signature]	
2. 1345	J. Spaulding	[Signature]	
3.			
4.			
5.			
6.			
7.			
8.			

STAFF RELEASING INMATE: J. Spaulding Signature: [Signature]  
FROM HOLDING CELL Print Name  
C/O Streeter Signature: [Signature]  
Print Name

TIME RELEASED FROM HOLDING CELL: 1350 TOTAL TIME IN CELL: 35 min  
MEDICAL EXAM YES ☒ NO ☐ PT MUNN, K Signature: [Signature]  
Print Name

COMMENTS ON INMATE'S BEHAVIOR/DISPOSITION: \_\_\_\_\_

SUPERVISOR'S SIGNATURE UPON RELEASE OF INMATE: [Signature] TITLE: Sgt.  
Print Name Signature

MANAGER/AOD APPROVAL IF FOUR (4) HOUR TIME LIMIT IS EXCEEDED:  
Print Name Signature TITLE  
REASON FOR EXCEEDING TIME LIMIT: \_\_\_\_\_

**EXHIBIT B**



STATE OF CALIFORNIA  
CDC 7362 (Rev. 03/04)

## HEALTH CARE SERVICES REQUEST FORM

DEPARTMENT OF CORRECTIONS

## PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☒

NAME: Kameal Parrish CDC NUMBER: F15901 HOUSING: D2-104

PATIENT SIGNATURE: [Signature] DATE: 11-03-10

REASON YOU ARE REQUESTING HEALTH CARE SERVICES: Describe Your Health Problem And How Long You Have Had The Problem)

I have severe Migraines from being beating by the C/Os on to 11-2010. I was taking Migraine Medication until I went to CTC 2 weeks ago and I ran out so I need a refill.

Thank you.

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

## PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office)



**EXHIBIT C**

9995581

STATE OF CALIFORNIA  
CDC 7362 (Rev. 03/04)

## HEALTH CARE SERVICES REQUEST FORM

DEPARTMENT OF CORRECTIONS

## PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☐

NAME: Katal Parrish CDC NUMBER: F15901 HOUSING: D2-217

PATIENT SIGNATURE: KAP DATE: 9-13-2010

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem) I need to see the doctor because I have severe migraines everyday from being beating in the head repeatedly by the cops on 6-11-2010. I need medication for the headaches. The migraines come when I am under bright lights/sun or loud sounds.

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM.

## PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)

# EXHIBIT D

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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 RALPH COLEMAN, et al.,

11 Plaintiffs,

No. CIV S-90-0520 LKK JFM P

12 vs.

13 ARNOLD SCHWARZENEGGER,  
14 et al.,

15 Defendants.


ORDER

16 On December 14 and 15, 2006, the special master filed a sixteenth monitoring  
17 report. The court has reviewed the report and the recommendations contained therein and has  
18 made orders in response to the first recommendation. (See Orders filed December 15, 2006 and  
19 February 7, 2007.) The sixteenth round monitoring report includes a second recommendation to  
20 which no objection has been interposed. It will therefore be made an order of the court.

21 In accordance with the above, IT IS HEREBY ORDERED that defendants shall  
22 review their "Procedures for Mental Health Assessment of Inmate Indecent Exposure and  
23 Treatment for Exhibitionism," dated October 10, 2004. Defendants shall consider the  
24 concentration of the CDCR's inmates with exhibitionism or a paraphilia associated with  
25 exhibitionist behaviors in a smaller number of regional institutions in order to focus staff with  
26 requisite training and skills to provide the treatment services not presently available in many

1 CDCR institutions. Institutions shall be provided with specific direction on the appropriate  
2 security measures that need to be adopted, including, if deemed necessary, a requirement for the  
3 creation of an internal high-level custody and mental health committee to review local residents  
4 involving indecent exposure or exhibitionism. Defendants shall inaugurate a re-thought, fully  
5 staffed program for inmates with exhibitionism or a paraphilia associated with exhibitionist  
6 behaviors in at least three institutions by July 1, 2007.

7 DATED: March 9, 2007.

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11 LAWRENCE K. KARLTON  
12 SENIOR JUDGE  
13 UNITED STATES DISTRICT COURT  
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State of California

California Department of Corrections and Rehabilitation

## Memorandum

Date : August 31, 2007

To : Associate Directors, Division of Adult Institutions  
Regional Administrators, Division of Correctional Health Care Services  
Wardens  
Health Care Managers  
Chiefs of Mental Health  
Classification Staff Representatives  
Classification and Parole Representatives  
Correctional Counselor IIIs, Reception Centers

Subject : **AMENDED HOUSING POLICY FOR ADULT MALE INMATES REFERRED FOR TREATMENT OF EXHIBITIONISM**

This supersedes the memorandum issued July 2, 2007, that announced the housing policy for adult male inmates diagnosed with exhibitionism.

Pursuant to a *Coleman* court order issued March 9, 2007, the California Department of Corrections and Rehabilitation (CDCR) is required to implement a specialized group Exhibitionism Treatment Program for inmates in the Mental Health Services Delivery System (MHSDS) who have been identified as requiring treatment for exhibitionism. The *Coleman* order required that group treatment be provided in at least three institutions by July 1, 2007. A mental health interdisciplinary treatment team (IDTT) will provide a CDCR Form 128-MH8 Chrono, Mental Health IDTT Housing/Program Recommendation (sample attached), documenting that the inmate meets clinical criteria requiring treatment of exhibitionism. A CDCR Form 128-C, Medical, Psych, Dental Chrono may be used temporarily while institutions are in the process of implementing form 128-MH8. Treatment is required when an inmate has had at least one episode of indecent exposure in the last six months (at the time of the IDTT), and is either diagnosed with Exhibitionism, or meets the following alternate criteria.

Alternate criteria: The Exhibitionism diagnosis requires that the patient experiences "fantasies, sexual urges, or behaviors involving the exposure of one's genitals to an unsuspecting stranger." An inmate who meets all criteria for the diagnosis of Exhibitionism, **except** that the victim was not an "unsuspecting stranger" but was a staff member or inmate who did not consent to or encourage the behavior, must be referred for treatment of exhibitionism. A diagnosis of Exhibitionism is not required for inmates who meet the alternate criteria.

Inmate-patients meeting the clinical criteria shall be transferred to one of the three locations, based on the following custody criteria.

Associate Directors, Division of Adult Institutions  
Regional Administrators, Division of Correctional Health Care Services  
Wardens  
Health Care Managers  
Chiefs of Mental Health  
Classification Staff Representatives  
Classification and Parole Representatives  
Correctional Counselor IIIs, Reception Centers  
Page 2

**Pelican Bay State Prison (PBSP)-Psychiatric Services Unit (PSU)**  
**California State Prison, Sacramento (SAC) – PSU**

- Inmates currently serving Security Housing Unit (SHU) terms and who are at the Enhanced Outpatient Program (EOP) level of care.
- Inmates on Administrative Segregation Unit (ASU) status with pending SHU terms at their current location and who are at the EOP level of care.

**California State Prison, Corcoran (COR) SHU**

- Inmates currently serving SHU terms and who are at the Correctional Clinical Case Management System (CCCMS) level of care.
- Inmates on ASU status pending SHU terms at their current location and who are at the CCCMS level of care.

Inmates that are eligible for COR SHU who are susceptible to developing Coccidiomycosis (Valley Fever) organism will go to SAC PSU.

In April 2007 institutions were surveyed by the Division of Correctional Health Care Services (DCHCS) to determine the number of male inmates who meet clinical criteria requiring treatment of exhibitionism. On July 2, 2007, institutions were provided a listing of inmates at their facilities who have been clinically diagnosed with exhibitionism. CDCR 128-Cs documenting the diagnosis for each inmate were faxed to the respective institutions on July 10, 2007. Institutions were instructed to review these cases in accordance with the housing criteria outlined above and refer the cases to the Institutional Classification Committee for action. Eligible cases shall be expedited for endorsement by the Classification Staff Representative (CSR) and transferred to the appropriate facility.

The CSR endorsement should be as follows:

- PBSP-PSU for Exhibitionism Treatment Program
- SAC-PSU for Exhibitionism Treatment Program
- COR-SHU for Exhibitionism Treatment Program



Associate Directors, Division of Adult Institutions  
Regional Administrators, Division of Correctional Health Care Services  
Wardens  
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Correctional Counselor IIIs, Reception Centers  
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### **HOUSING POLICY**

Once clinically diagnosed with Exhibitionism or determined to meet the alternate criteria, the case will be reviewed by an Institutional Classification Committee and Interdisciplinary Treatment Team (ICC/IDTT). The ICC/IDTT will evaluate the inmate's case factors to determine whether he can safely program in a group therapy setting in one of the three programs listed above. In addition to the required documentation outlined in the California Code of Regulations, Title 15, Section 3375, "Classification Process", the CDCR Form 128-G, Classification Chrono, shall document the following:

- The date of placement and initial reason for placement in segregated housing.
- Whether a Rules Violation Report (RVR) was issued and, if so, its disposition. Identify the outcome if adjudicated. Note whether the case was referred to the District Attorney (DA) and, if so, the status of the referral.
- Any subsequent RVRs the inmate has received and their status (adjudicated, pending DA referral, etc).
- Whether the inmate has a pending RVR and, if so, annotate that the sending institution will retain responsibility for the adjudication of all pending RVRs.
- Whether the inmate is currently serving a SHU term and, if so, whether it is determinate or indeterminate, and the Minimum Eligible Release Date (MERD), if applicable.
- If the inmate is pending a SHU term, document the projected MERD date.
- Review of potential enemy concerns.
- Any security concerns the committee may have as a result of the inmate's case factors.
- If suitable for placement, indicate the specific exhibitionism treatment program the inmate is being recommended for transfer.
- If not suitable for placement, provide specific reasons why the inmate is not eligible.

Inmates with pending RVRs and/or court proceedings may be transferred to the program. After the inmate is transferred, the sending institution will retain responsibility for the adjudication of all pending RVRs and be responsible for



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Correctional Counselor IIIs, Reception Centers  
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transporting the inmate to and from all necessary court proceedings. The sending institution will be responsible for notifying the receiving institution when the inmate must be transported for court proceedings.

Inmates whose SHU terms are within 90 days of expiring and who have no subsequent disciplinary related issues pending will **not** be transferred to the treatment program. Inmates whose SHU terms will not expire within 90 days or have additional SHU terms pending are eligible for transfer.

Inmates that are in ASU with pending or projected SHU terms of greater than 90 days are eligible for transfer. Inmates with projected MERDs of less than 90 days will not be transferred to the program.

Therefore, any inmate with a SHU or projected SHU term of less than 90 days is not eligible for placement in the Exhibitionism Treatment Program.

Inmates previously housed on Sensitive Needs Yards (SNY) who are currently placed in ASU or are serving SHU terms will be reviewed on a case-by-case basis by the current institution's ICC/IDTT for placement consideration to determine whether the individual can safely participate in a group treatment program in close proximity to non-SNY inmates. This information will be documented on the CDCR 128-G. If determined appropriate for placement in an Exhibitionism Treatment Program, the receiving institution will conduct an ICC/IDTT to determine how best to provide for the inmate's safety while housed in the treatment program, and document such provisions on the CDCR 128-G.

Inmates scheduled for transfer to the Exhibitionism Treatment Program at one of the participating institutions will not supersede the established mental health priority transfer agreement as it relates to PSU and SHU beds. The CSR will fax a copy of the endorsement chrono to the DCHCS, Health Placement Unit, at (916) 324-1795, for tracking purposes.

The Exhibitionism Treatment Program is voluntary; however, pursuant to the court order, inmates meeting the criteria for inclusion will be transferred to one of the three

Associate Directors, Division of Adult Institutions  
Regional Administrators, Division of Correctional Health Care Services  
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Correctional Counselor IIIs, Reception Centers  
Page 5

institutions providing this group treatment. If a qualifying inmate refuses to enter the program, he shall be put up for transfer to one of the participating institutions. Once at the institution, mental health staff will intervene to encourage the inmate to participate. The inmate will remain at the institution until he either: (1) voluntarily enters the Exhibitionism Treatment Program; (2) has not committed a qualifying offense for a six-month period; or (3) his SHU term has been completed.

Upon release from the Exhibitionism Treatment Program, an inmate who commits a qualifying offense that meets program criteria will be eligible for placement back in the program.

Wardens shall ensure appropriate staff is aware of these procedures.

If you have any questions or require additional information from the Division of Adult Institutions, please contact Eric Arnold, Chief, Classification Services Unit (CSU), at (916) 322-2544. For health care issues, contact Shama Chaiken, Chief Psychologist, Mental Health Program, DCHCS, at (916) 445-4114.

**Original Signed by**  
**Teresa Schwartz for:**

SCOTT KERNAN  
Chief Deputy Secretary  
Adult Operations

**Original Signed by:**

ROBIN DEZEMEER  
Director  
Division of Correctional Health Care Services

Attachment

cc: K.W. Prunty  
Richard Hawkins  
Steve Alston  
Catherine Bernstein  
Teresa Schwartz  
Ombudsman's Office  
Doug McKeever  
Rick Johnson

Stephen Kessler  
Bernard Warner  
Tracy Johnson  
Bonnie Kolesar  
George Giurbino  
Eric Arnold  
Chief Psychologists  
Lee Ann Chrones

Scott Kernan  
Thomas Hoffman  
Kathy Prosper  
Shama Chaiken  
Linda Barnett  
Facility Captains, CSU  
Chief Psychiatrists

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

(C.C.P. SEC. 466 &amp; 2015.5; 28 U.S.C. SEC. 1746)

K. Parrish

I, \_\_\_\_\_, declare under penalty of perjury that: I am the **Plaintiff** in the above entitled action; I have read the foregoing documents and know the contents thereof and the same is true of my own knowledge, except as to matters stated therein upon information, and belief, and as to those matters, I believe they are true.

Executed this 28 day of May, 20 12, at Salinas Valley State Prison, Soledad, California 93960-1050.

(Signature)

  
DECLARANT/PRISONER

## PROOF OF SERVICE BY MAIL

(C.C.P. SEC 1013(a) &amp; 2015.5; 28 U.S.C. SEC. 1746)

K. Parrish

I, \_\_\_\_\_, am a resident of California State Prison, in the County of Monterey, State of California; I am over the age of eighteen (18) years and ~~am~~ am not a party of the above entitled action. My state prison address is: P.O. Box 1050, Soledad, California 93960-1050.

On May 28, 20 12, I served the foregoing: Plaintiff's Opposition To The Defendants' Motion and Motion for Summary Judgement; Memorandum of Points and Authorities and Declaration of Kaheal Parrish In Support Thereof

(Set forth exact title of document(s) served)

On the party(s) herein by placing a true copy(s) thereof, enclosed in sealed envelope(s), with postage thereof fully paid, in the United States Mail, in a deposit box so provided at Salinas Valley State Prison, Soledad, California 93960-1050.

U.S. District Court

Northern District of Calif

Honorable Lucy H. Koh

280 S. First Str #3035

San Jose, Calif 95113

U.S. Department of Justice

Office of Attorney General

Emily L. Brinkman, Deputy AG

455 Golden Gate Ave #11000

San Francisco, Calif 94102

(List parties served)

There is delivery service by United States Mail at the place so addressed, and/or there is regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: May 28, 20 12

  
DECLARANT/PRISONER